

COMMISSIONERS
JEFF HATCH-MILLER - Chairman
WILLIAM A. MUNDELL
MIKE GLEASON
KRISTIN K. MAYES
GARY PIERCE



ARIZONA CORPORATION COMMISSION

KRISTIN K. MAYES
Commissioner

Direct Line: (602) 542-4143
Fax: (602) 542-0765
E-mail: kmayes@azcc.gov

January 24, 2007

Mr. James Pignatelli
President and CEO
UniSource Energy
One South Church Avenue
Mail Stop UE181
Tucson, AZ 85701

Re: Tucson Electric Power Request to Propose Joint Resolutions in Docket No. E-01933A-05-0650

Dear Mr. Pignatelli and Parties to the Docket:

In a letter sent to the docket on January 22, 2007, Tucson Electric Power ("TEP") requests that the Parties to the 1999 Settlement Agreement engage in "joint resolutions" to settle "important issues" with regard to retail electric competition and the 1999 TEP Settlement Agreement. These "joint resolutions" would presumably seek to resolve a case in which TEP has asked for a 26 percent rate increase.

TEP's request for "joint resolutions" comes less than one month from the commencement of the hearing in this matter, scheduled on February 20, 2007. While the Settlement Agreement in Decision No. 62103 does allow the Parties to "cooperate in an effort to propose joint resolutions for any such matters" regarding retail electric competition, the Commission was clear in re-opening this decision that it wanted to discuss the viability of the Settlement in light of Track A, Track B, the Court of Appeals' decision in *Phelps Dodge Corp v. Arizona Electric Power Co-op, Inc.*, and TEP's original proposals. We also wished to ensure that other issues of concern to the Commission and the Company's customers were addressed in the proceedings, including Demand Side Management, Renewable Energy Standards and Time of Use Tariffs.¹

It appears from TEP's letter requesting "joint resolutions" in this case that many of the interveners interested in issues such as renewable energy and demand side management would be precluded from participating in the talks. There also is no indication from TEP's letter that such issues would be made a part of the settlement discussions.

I would request that TEP state how Section 13.2 of the 1999 Settlement Agreement, which appears to be a meet and confer provision allowing signatories to the Settlement to discuss electric competition, relates to the current proceeding, which has taken on the appearance of a general rate case.

¹ Decision No. 68669, Finding of Fact 47.

Mr. James Pignatelli
January 24, 2007
Page 2

Additionally, I request that TEP tell the Commission whether any of the interveners in the current proceeding would be permitted to participate in the "joint resolutions" and discussions as proposed by TEP. And, I would like TEP to specifically state which issues would be included in these discussions. If TEP envisions excluding any interveners or issues in the current proceeding from the settlement talks, please provide a detailed explanation why.

Due to the advanced the nature of this case I am concerned that settlement discussions may not be in the best interest of TEP's consumers or this Commission's deliberative process. The case involves a number of important issues that will impact TEP ratepayers for years to come, and these issues are likely best resolved through a visible public process, not one that transpires behind closed doors without all parties represented at the table.

Thank you for your attention to this matter.

Sincerely,



Kris Mayes
Commissioner

Cc: Chairman Jeff Hatch-Miller
Commissioner William A. Mundell
Commissioner Mike Gleason
Commissioner Gary Pierce
Brian McNeil
Ernest Johnson
Chris Kempley
Heather Murphy
Parties to the Docket